Remarks

This Application has been carefully reviewed in light of the Office Action dated September 8, 2008. Applicant believes all claims are allowable without amendment and respectfully provides the following remarks. Applicant respectfully requests reconsideration and allowance of all pending claims.

I. The Claims are Allowable over the Proposed *Ivanov-Britton* Combination

The Examiner rejects Claims 1-45 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication 2004/0215604 by Ivanov ("*Ivanov*")[1] in view of U.S. Patent 6,279,030 to Britton et al. ("*Britton*"). Applicant respectfully traverses these rejections and discusses independent Claim 1 as an example.

A. The Proposed *Ivanov-Britton* Combination Fails to Disclose, Teach, or Suggest Each and Every Limitation Recited in Claim 1

Applicant reiterates the deficiencies of *Ivanov* discussed in Applicant's previous Responses. Additionally, Claim 1 recites further patentable distinctions over the proposed *Ivanov-Britton* combination.

At a minimum, the proposed *Ivanov-Britton* combination fails to disclose, teach, or suggest the following limitations recited in Claim 1:

- dynamically selecting at least a portion of a plurality of agent components based on the client request and the environment characteristics, the at least a portion of the plurality of agent components being selected using a relational knowledgebase that comprises a properties table of properties for dynamic agent component selection and an actions table of actions for processing; and
- processing the client request using the selected agent components and according to one or more actions of the actions table that are planned and scheduled.

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[1] Applicant believes he could antedate *Ivanov* based at least on Applicant's date of conception prior to April 24, 2003 (the filing date of *Ivanov*) and subsequent diligence up to the September 9, 2003 filing date of the Application. While Applicant has chosen not to do so in the present Response due to the clear distinctions between Applicant's independent claims and *Ivanov*, Applicant reserves the right to antedate *Ivanov* at a later time, if appropriate. By not antedating *Ivanov* at this time, Applicant does not concede that *Ivanov* qualifies as prior art.

The Examiner apparently acknowledges that *Ivanov* does not teach these limitations. *See Office Action* at 4. However, the Examiner argues that *Britton* discloses these limitations. *See id.* Applicant respectfully disagrees that the cited portions of *Britton* disclose, teach, or suggest these limitations.

For example, the cited portion of *Britton* fails to disclose, teach, or suggest "dynamically selecting at least a portion of a plurality of agent components based on the client request and the environment characteristics, the at least a portion of the plurality of agent components being selected using a relational knowledgebase that comprises a properties table of properties for dynamic agent component selection and an actions table of actions for processing," as recited in Claim 1. As allegedly disclosing these limitations, the Examiner cites column 3, lines 40-60 of *Britton*. *Office Action* at 4.

The cited portion of *Britton* discloses that a program component can be dynamically selected and downloaded based on current values of "changeable attributes." *Britton* at 3:41-43. *Britton* further discloses that multiple versions of a program component are available and that a specific version can be dynamically selected from the available versions based on current values of the changeable attributes. *Id.* at 3:45-49. According to *Britton*, the changeable attribute values represent a user's authorization privileges, current working environment, preferences, network connection type, status, etc. *Id.* at 3:30-33. *Britton* also discloses that the values of the changeable attributes may be provided from a number of sources, including the user, configuration mechanisms on the user's machine, the network gateway, or a network database of user or group preferences and administrative policy information. *Id.* at 3:55-60.

Thus, the cited portions of *Britton* appear to disclose that a program component can be dynamically selected based on certain changeable attributes (i.e., a user's authorization privileges, current working environment, preferences, network connection type, status, or some combination thereof), and that those attributes can be retrieved from a number of sources (i.e., the user, configuration mechanisms on the user's machine, the network gateway, or a network database of user or group preferences and administrative policy information).

However, nowhere does the cited portion disclose, teach, or suggest "dynamically selecting at least a portion of a plurality of agent components based on the client request and the environment characteristics, the at least a portion of the plurality of agent components being selected using a relational knowledgebase that comprises a properties table of properties for dynamic agent component selection and an actions table of actions for processing," as recited in Claim 1. For example, the cited portion of *Britton* does not mention any action table of actions for processing, let alone that at least a portion of any agent components are selected using a relational knowledgebase that comprises an action table of actions for processing, as recited in Claim 1.

As another example, *Britton* fails to disclose, teach, or suggest "processing the client request using the selected agent components and according to one or more actions of the actions table that are planned and scheduled," as recited in Claim 1.

First, at least because the cited portions of *Britton* fail to disclose, teach, or suggest *"dynamically selecting at least a portion of a plurality of agent components"* in the manner recited in Claim 1 (as discussed above), the cited portions of *Britton* necessarily fail to disclose, teach, or suggest "processing the client request *using the selected agent components* and according to one or more actions of the actions table that are planned and scheduled," as recited in Claim 1.

Second, the portion of *Britton* the Examiner cites as allegedly disclosing "processing the client request using the selected agent components and according to one or more actions of the actions table that are planned and scheduled," as recited in Claim 1, fails to disclose these limitations. In particular, the Examiner relies upon *Britton,* column 4, line 43 through column 5, line 5. *Office Action* at 5. The cited portion of *Britton* discloses a technique for use in a computing environment capable of having a connection to a network, for dynamically selecting a program component for remote execution based on current values of changeable attributes. *Britton* at 4:43-47. However, nowhere does the cited portion of *Britton* disclose, teach, or suggest "processing the client request using the selected agent components and *according to one or more actions of the actions table that are planned and scheduled,*" as recited in Claim 1. There is simply no mention in the cited portions of *Britton*

of any actions table, let alone that a client request is processed using agents components selected in the manner recited in Claim 1. Additionally, the cited portion of *Britton* fails to disclose processing the client request according to actions of the actions table that are planned and scheduled.

For at least these reasons, Applicant respectfully submits that the proposed *Ivanov-Britton* combination fails to disclose, teach, or suggest each limitation recited in Claim 1 and its dependent claims. For at least certain analogous reasons, Applicant respectfully submits that the proposed *Ivanov-Britton* combination fails to disclose, teach, or suggest each limitation recited in Claims 16 and 31 and their dependent claims. Applicant's claims are allowable for at least these reasons.

B.   The Proposed *Ivanov-Britton* Combination is Improper

Even assuming for the sake of argument only and not by way of concession that the proposed *Ivanov-Britton* combination did disclose each limitation recited in Claim 1 (which, as discussed above, it does not), Applicant submits that the Examiner has not demonstrated a *prima facie* case of obviousness because the Examiner has not provided an adequate reason either in the cited references or in the knowledge generally available to one of ordinary skill in the art at the time of Applicant's invention to combine or modify the references in the manner proposed by the Examiner. Claim 1 is allowable for at least this additional reason.

As allegedly providing a reason for the combination, the Examiner states the following:

> It would have been obvious to one of ordinary skill in the art at the time the
> invention was made to combine the teaching of Ivanov and Britton et al. to
> dynamically select a program component and process the selected program
> component based on user request, because it would allow the software to be
> optimized for particular users or groups of users, or particular environments of
> hardware and/or software, while still providing applications that are usable by
> a wide range of users in a wide range of operating environments.

Office Action at 5.

Applicant respectfully submits that the Examiner's statement merely provides conclusory assertions as to the reasons for the combination, which certainly does not satisfy the stringent standards for establishing a *prima facie* case of obviousness. "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. ____, 127 S. Ct. 1727, 1741, 82 U.S.P.Q.2d 1385, 1396 (2007) (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). Respectfully, the Examiner has not provided an adequate explanation (without using Applicant's claims as a blueprint) as to why one of ordinary skill in the art at the time of invention would have combined the various teachings of the references in the manner the Examiner proposes.

Ivanov apparently discloses a query processing technique. The cited portions of *Britton* disclose dynamically selecting a program component based upon changeable attributes. It does not seem that the purported teachings of *Britton* cited by the Examiner (i.e., dynamically selecting a program component based upon changeable attributes) has any apparent relation to the alleged teachings of *Ivanov* (i.e., query processing) the Examiner is attempting to combine with *Britton*. Therefore, Applicant submits that this proposed advantage of *Britton* does not appear to support the particular combination/modification the Examiner is attempting to construct.

Applicant notes that "[t]he factual inquiry whether to [modify] references must be thorough and searching." *In re Sang-Su Lee,* 277 F.3d 1338, 1343 (Fed. Cir. 2002). Any "conclusory statements . . . do not adequately address the issue of motivation to combine." *Id.* Applicant respectfully submits that the Examiner's statement does not provide an adequate "factual inquiry." The Examiner does not give adequate technical reasoning why or how to combine these references, nor does the Examiner appear to state how these systems can be combined and, if combined, would be successfully combined. For example, the Examiner does not provide any technical reasoning as to how or why – based solely on the cited references and/or the knowledge generally available to one of ordinary skill in the art at the time of Applicant's invention – the purported teachings of *Britton* could be incorporated

into the query processing system of *Ivanov*. The conclusory assertions surely cannot be said to be "thorough and searching."

Thus, Applicant respectfully submits that the Examiner's attempt to combine *Ivanov* and *Britton* appears to constitute the type of impermissible hindsight reconstruction of Applicant's claims, using Applicant's claims as a blueprint, that is specifically prohibited by the M.P.E.P. and governing Federal Circuit cases.

For at least these additional reasons, Applicant respectfully requests reconsideration and allowance of Claim 1 and its dependent claims. For at least certain analogous additional reasons, Applicant respectfully requests reconsideration and allowance of independent Claims 16 and 31 and their dependent claims.

C. Conclusion

For at least these reasons, Applicant respectfully requests reconsideration and allowance of independent Claim 1 and its dependent claims. For at least certain analogous reasons, Applicant respectfully requests reconsideration and allowance of independent Claims 16 and 31 and their dependent claims.

II. No Waiver

All of Applicant's arguments are without prejudice or disclaimer. Additionally, Applicant has merely discussed example distinctions from the references cited by the Examiner. Other distinctions may exist, and Applicant reserves the right to discuss these additional distinctions in a later Response, if appropriate. By not responding to additional statements made by the Examiner, Applicant does not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicant are sufficient to overcome the Examiner's rejections.
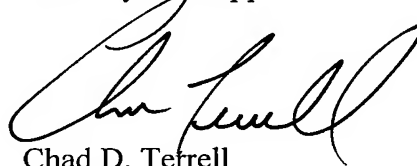
Conclusion

Applicant has made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicant respectfully requests full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Chad D. Terrell, Attorney for Applicant, at the Examiner's convenience at (214) 953-6813.

Although no fees are believed due, the Commissioner is hereby authorized to charge any necessary fees or credit any overpayments to Deposit Account No. 05-0765 of Electronic Data Systems Corporation.

Respectfully submitted,

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Date: December 8, 2008

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